REMARKS

Reconsideration and allowance of the subject application are respectfully requested. By this Amendment, Applicant has canceled claims 1-13. Thus, upon entry of this Amendment, claims 14-24 are pending in the application. In response to the Office Action (Paper No. 14), Applicant respectfully submits that the pending claims define patentable subject matter.

In the Office Action, claims 1, 8-11, 14 and 20-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Petersen et al. (USP 5,802,051; hereafter "Petersen") in view of Subbiah et al. (USP 6,538,992; hereafter "Subbiah"). Claims 2-6 and 15-18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Petersen in view of Subbiah and Depelteau et al. (USP 6404,767; hereafter "Depelteau"). Claims 12 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Petersen in view of Subbiah, Depelteau and Harth et al. (USP 6,331,981; hereafter "Harth"). Claims 7 and 19 are rejected under U.S.C. § 103(a) as being unpatentable over Petersen in view of Subbiah and Gritton (USP 5,940,397). Applicant respectfully traverses the prior art rejections.

In order to improve clarity, Applicant has amended independent claims 14 and 22-24 to improve clarity. Applicant respectfully submits that the amendments to the claims should be entered as they are directed to matters of form and do not raise new issues requiring further consideration and/or search.

The Examiner cites column 7, lines 45-67 of Subbiah for disclosing a multilevel QoS service module which can be used in classifying CBR/VBR services over ATM, and places the packets into different queues based on the QoS. Thus, if a user requests a CBR service, then

voice packets belonging to that particular user can be placed in a single ATM cell payload and sent immediately to avoid any delay. Further, the Examiner asserts that the method of Subbiah avoids inconsistent delays and provides service quality guarantees based on a customer request in a way as to keep ATM cell spacing as constant as possible by having a plurality of queues having different QoS requirement with each respective queue.

However, Applicant respectfully submits that the method of Subbiah introduces delay variations in ATM cell spacing (i.e., ATM cell spacing is not kept constant) since ATM cells may be sent before expiration of the delay time and at the expiration of the delay time. In particular, Subbiah (col. 8, lines 43-50) teaches that if an ATM cell is completely filled with packets before the expiration of the delay time, which is set based on the quality of service (QoS) requirement of the packets, the ATM cell is sent, otherwise a partially filled ATM cell is sent at the expiration of the delay time (i.e., schedule transmission time). As the Examiner correctly notes, Subbiah discloses ATM cells are sent without any delay (even if the ATM cell is not completely filled) if packets belonging to a particular bit stream have a stringent QoS requirement (which appears to indicate that the timer delay is set to zero if the QoS requirement of the packets is stringent). Thus, Subbiah teaches ATM cell transmission is variably spaced according to the negotiated cell rate (i.e., QoS) and fill level of the ATM cell.

On the other hand, the present invention keeps cell spacing constant by waiting until the schedule transmission time (AST) to multiplex/insert the packets into an ATM cell and transmit the ATM cell. See page 5, line 1 - page 6, line 16 of the present application.

Figures A and B (below) illustrate the differences between the present invention of claim 14-24 and Subbiah.

Fig. A: Present Invention

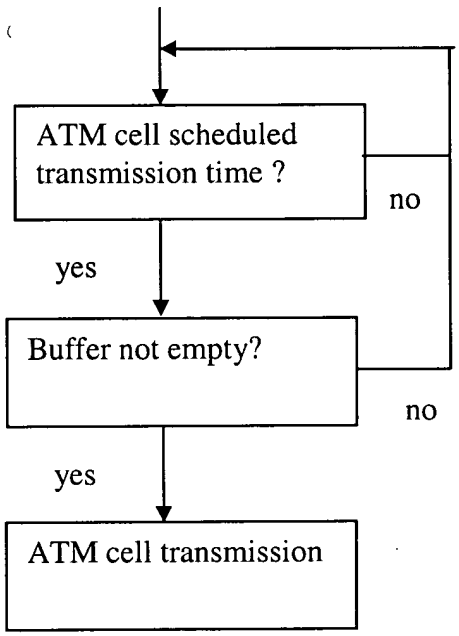
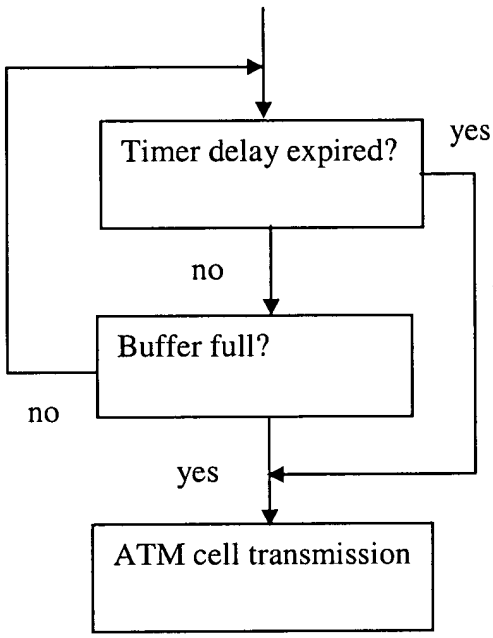


Fig. B: Subbiah



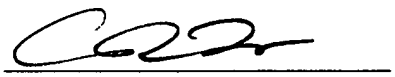
Lastly, as the Examiner concedes, Petersen does not disclose scheduling ATM cell transmission time in a way as to keep ATM cell spacing as constant as possible. That is, contrary to the present invention, Petersen is not concerned with the scheduling of transmission times of the ATM cells. Rather, Petersen's object is the preparation of the content of ATM cells noted 940 in Figure 9, in the circumstances by multiplexing of mini-cells, taking into account the respective priorities (as illustrated for example) by the blocks located on the left-hand side of ATM cells 940 in figure 9).

In view of the above, Applicant respectfully submits that claims 14-24 should be allowable because the cited references, alone or combined, do not teach or suggest all of the features of the claimed invention, and one of ordinary skill in the art would not have been motivated to combine and modify the cited references to produce the claimed invention.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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